

DRAFT: August 2, 1999
CALIFORNIA CODE OF REGULATIONS
TITLE 20 PUBLIC UTILITIES & ENERGY
DIVISION 2 ENERGY COMMISSION
CHAPTER 5.5 PUBLIC INTEREST ENERGY RESEARCH (PIER) PROGRAM
ARTICLE 1 SOLE & SINGLE SOURCE CONTRACTS

Section 2100. Award of Sole Source Contracts

The following subdivisions apply to contracts in the Public Interest Energy Research (PIER) Program awarded on a sole source basis, as defined by Public Resources Code section 25620.5(f), without competitive bidding or competitive negotiations. Sole source contracts are awarded at the sole discretion of the California Energy Commission (Commission).

- (a) The cost of the proposed contract shall be reasonable; and
- (b) The Commission shall make a determination, in consultation with the Department of General Services, that any one of the following requirements is met:
 - (1) The proposed contract is unsolicited and meets the evaluation criteria of Public Resources Code Division 17, chapter 7.1; or
 - (2) The expertise, service or product is unique; or
 - (3) The urgency of the need for the information or deliverable is such that a competitive solicitation would frustrate timely performance; or
 - (4) The proposed contract funds the next phase of a multiphased project and the existing agreement is being satisfactorily performed; or
 - (5) The proposed contract is in the best interests of the state.

Section 2101. Award of Single Source Contracts

The following subdivisions apply to contracts in the PIER Program awarded on a single source basis, as defined by Public Resources Code section 25620.5(e), without competitive bidding or competitive negotiations. Single source contracts are awarded at the sole discretion of the Commission.

- (a) The Commission shall make a determination that all of the following requirements are met:
 - (1) Two or more business entities are capable of supplying or providing the goods or services that meet a specified need of the Commission; and
 - (2) The Commission has thoroughly evaluated at least two possible contractors for the work described in the proposed contract; and
 - (3) The cost of the proposed contract is reasonable; and
 - (4) The proposed contract is in the best interests of the state; and
- (b) The Commission shall make a determination that any one of the following requirements is met:
 - (1) The proposed contract offers or includes a collaborative industry or public/private effort; or
 - (2) The proposed contract offers or includes leveraged funding; or
 - (3) The proposed contract is urgent and the need for the information or deliverable is such that a competitive solicitation would frustrate timely performance; or
 - (4) The proposed contract is with an entity that is prohibited by law from participating in a competitive solicitation.
- (c) The Commission shall document findings regarding the following:
 - (1) Rationale for choosing the proposed contractor versus other possible contractors; and
 - (2) Rationale for why the Commission did not use competitive bidding procedures; and
 - (3) Impact of the contract with the proposed contractor versus other possible contractors.

Section 2102. Factors For Consideration

In determining whether to award a contract on a sole or single source basis, the Commission shall consider evaluation factors which shall include but not be limited to:

- (a) Does the proposed contract address at least one issue or goal specified in the most recent PIER program area plan, appropriate subject area plan or Strategic Plan?
- (b) Is the technological approach, analysis or process used substantially the same as another contract already funded under the PIER Program?
- (c) Is the proposed contract substantially the same as a proposal previously submitted to the Commission and rejected on the basis of technical issues or administrative requirements?
- (d) Was the proposed contract received within the timeframe directly before the anticipated publication date for a future PIER solicitation for which the proposed contract is eligible;
- (e) Was the proposed contract received within the timeframe directly after the contract award date for a past PIER solicitation for which the proposed contract was eligible?
- (f) Does the proposal advance science or technology and provide benefits to California citizens?
- (g) Is the proposal technology not adequately addressed by competitive and regulated markets?
- (h) What is the cost of the proposed project?
- (i) What is the level of public and private benefits compared to proposal costs to be funded by the PIER program and by match funds?
- (j) What is the overall technical quality and merit of the proposal?
- (k) What are the qualifications of the project team?
- (l) What is the likelihood of and timeframe for success of the proposal?
- (m) What are the technical, market and financial risks of the proposal?
- (n) Is the proposal consistent with the energy policies of the State of California?

Section 2103. Procedures and Format

The Commission shall adopt procedures that will set forth the specific process that the Commission shall follow in awarding contracts on a sole or single source basis. The procedures shall also set forth format requirements for proposals that request contract award on a sole or single source basis. The Commission may reject proposals that do not follow these format requirements.

Section 2104. Public Agency Exemption

The requirements in this article shall not apply to the following:

- (a) The Regents of the University of California;
- (b) Trustees of the California State University;
- (c) Any public entity as defined by Public Contract Code section 1100;
- (d) Any unit of the federal government.